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ATTORNEY DOCKET NO.
069078.0104 (ET004)

PATENT APPLICATION
09/844,170

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Paul KLOCEK, et al.

Serial No.: 09/844,170

Filing Date: April 25, 2001

Group No.: 2874

Examiner: Hemang SANGHAVI

Title: METHOD AND APPARATUS FOR
SWITCHING OPTICAL SIGNALS WITH
A PHOTON BAND GAP DEVICE

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OFFICE OF PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

THIRD INFORMATION DISCLOSURE STATEMENT

The present application has been allowed (in a Notice of Allowance mailed on June 18, 2003), and the issue fee had been paid. This Information Disclosure Statement (IDS) is being hand carried to the PTO concurrently with a Petition which requests that the present application be withdrawn from issue, in order to permit filing of (1) a Request for Continued Examination (RCE), (2) this Information Disclosure Statement (IDS), and (3) an Amendment. Pursuant to the provisions of 37 C.F.R. §§ 1.56, 1.97 and 1.98, this IDS submits copies of several documents which may be material to examination of the present application.

More specifically, Applicants are submitting a copy of a PCT Search Report (PCT/ISA/220 and 210), which was

recently issued by the European Patent Office (EPO) in a corresponding PCT application. In this regard, the Examiner is advised that Applicants ultimately filed two PCT applications in which the text and drawings are identical to those of the present U.S. application. The first PCT application designated certain foreign countries of interest, and the second PCT application was filed later in order to designate some additional foreign countries of interest. The first PCT application resulted in issuance of a first PCT Search Report, which was previously submitted in the present application with Applicants' Second Information Disclosure Statement. The second PCT application resulted in issuance of a second PCT Search Report, which is the enclosed PCT Search Report, and which cites some art that was not cited in the first PCT Search Report.

In particular, the enclosed PCT Search Report cites seven documents. However, three of these seven documents are already of record in the present application (namely the Koops article, the Loncar article, and European Publication No. 1,089,095). Accordingly, copies of these three documents are not enclosed. As to the other four cited documents, Applicants are enclosing a copy of each, and each is listed on enclosed Form PTO-1449. Of these, PCT Publication No. WO 02/086615 is merely the published version of Applicants' first PCT application for the present invention. The two enclosed PCT publications and the enclosed Kerbage article do not appear to Applicants to be prior art with respect to the present application.

As explained above, this Information Disclosure Statement is being submitted in association with filing of an

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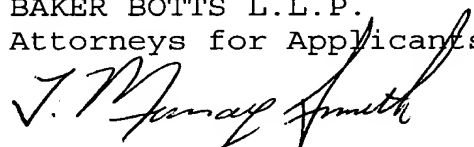
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RCE, and thus prior to issuance of a first Office Action in the RCE. Accordingly, no fee is believed to be due in association with the filing of this Information Disclosure Statement.

Further and favorable consideration of this application is respectfully requested.

Respectfully submitted,
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Date: September 8, 2003

Enclosures: PCT Search Report (7 sheets)
Form PTO-1449, and one copy
of each listed document
Acknowledgment Post Card